

P-407, 421/CP-91-627 ORDER DIRECTING TRAFFIC STUDIES AND COMMENTS
REGARDING AN APPROPRIATE STIMULATION FACTOR

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair
Commissioner
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Commissioner

In the Matter of the Finlayson
Exchange Petition for Extended
Area Service to Hinckley

ISSUE DATE: January 31, 1994

DOCKET NO. P-407, 421/CP-91-627

ORDER DIRECTING TRAFFIC STUDIES
AND COMMENTS REGARDING AN
APPROPRIATE STIMULATION FACTOR

PROCEDURAL HISTORY

On August 20, 1991, subscribers in the Finlayson exchange filed a petition for extended area service (EAS) to the Hinckley exchange. GTE Minnesota (GTE) serves Finlayson and U S West Communications, Inc. (USWC) serves Hinckley. Finlayson is completely separated from Hinckley by the Sandstone exchange. The Finlayson exchange is not contiguous to the petitioned exchange and, at the time this petition was filed, was not contiguous to a local calling area containing the petitioned exchange.

On September 30, 1991, the petition sponsor in Docket No. P-421/CP-91-187 (seeking EAS from Hinckley to Sandstone) filed a letter requesting the Commission to vary its rules and continue to process the Finlayson petition due to the pending consolidation of school districts affecting the three exchanges: Hinckley, Sandstone, and Finlayson. Since the adjacency requirement is statutory, the Commission would have been unable to grant this request. The Commission may vary its own rules under certain circumstances, but cannot vary or waive a statutory requirement.

On November 4, 1991, the Minnesota Department of Public Service (the Department) filed a recommendation that the Commission suspend further proceedings in the Finlayson petition until the outcomes of the Hinckley to Sandstone and Finlayson to Sandstone petitions were known.

On November 25, 1991, rather than dismiss the Finlayson-Hinckley petition outright, the Commission issued an Order adopting the Department's recommendation and suspending consideration of the petition temporarily.

On May 5, 1993, the Commission certified polling results showing that an adequate number of Hinckley subscribers supported establishment of EAS between Hinckley and Sandstone and ordered installation of that EAS route.

On December 1, 1993, GTE and USWC installed EAS for that route: Hinckley and Sandstone.

On December 7, 1993, the Commission certified the results of its subscriber poll in the Finlayson to Sandstone petition and directed GTE and USWC to install EAS between Finlayson and Sandstone.

On January 18, 1993, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

A. Required Statutory Findings

The EAS statute provides that the Commission shall grant a request to install EAS when the following three criteria have been met:

1. the petitioning exchange is contiguous or adjacent to an exchange or local calling area to which extended area service is requested in the petition;
2. at least 50 percent of the customers in the petitioning exchange make one or more calls per month to the exchange or local calling area to which extended area service is requested, as determined by a traffic study; and
3. polling by the Commission shows that a majority of the customers responding to a poll in the petitioning exchange favor its installation, unless all parties and the Commission agree that no polling is necessary. Minn. Stat. § 237.161, subd. 1(a)(1-3) (1992).

B. Adjacency

A local calling area (LCA) is defined as two or more exchanges that have EAS to each other. As a result of the Finlayson-Sandstone EAS petition and the Sandstone-Hinckley petition, two overlapping LCAs have been created: the Finlayson-Sandstone LCA and the Sandstone-Hinckley LCA. In these circumstances, the Commission has found in prior cases that the two exchanges that have EAS to a common exchange are adjacent to each other for purposes of the EAS statute.

The facts of this case are similar to those analyzed by the Commission in Docket No. P-405/CP-89-1080.¹ In that docket, the Sherburn, Welcome, and Fairmont exchanges were aligned similar to the Finlayson, Sandstone, and Hinckley exchanges in this docket. Like Sandstone, the Welcome exchange completely separated the petitioning exchange (Sherburn in that case; Finlayson in this case) from the exchange to which EAS was sought (Fairmont in that case; Hinckley in this). In addition, as in this case, the petitioning exchange and the petitioned exchange each had EAS to the middle exchange, Welcome. In short, as in this case, the petitioning exchange and the petitioned exchange in the Sherburn docket were part of overlapping LCAs.

In addressing the Sherburn-Welcome-Fairmont alignment, the Commission stated:

Because Sherburn [the petitioning exchange] shares no border with the Fairmont exchange [the petitioned exchange], Sherburn's adjacency to Fairmont, if any, must be due to its shared border with a local calling area that contains the Fairmont exchange. To meet the adjacency requirement by reason of a shared border with a local calling area, a petitioner must seek and qualify for EAS to all exchanges contained in that local calling area. If Sherburn did not already have EAS to the Welcome part of the Welcome-Fairmont local calling area, therefore, its petition would be defective because it requests EAS to only one of the calling area's exchanges. To qualify for further consideration, Sherburn would have to petition for EAS to the entire Welcome-Fairmont local calling area, i.e. to the Welcome exchange as well as to the Fairmont exchange. However, since Sherburn already has EAS to Welcome, its petition for EAS to Fairmont is sufficient. Based on this analysis, the Commission finds that Sherburn meets the statutory adjacency requirement.²

The Commission finds that the reasoning in the Sherburn case was sound and practical under the circumstances. To have found Sherburn's petition defective for failure to list Welcome (an exchange to which it already had EAS) as an exchange to which it sought EAS would have been absurd. Likewise in the present case,

¹ See In the Matter of a Petition for Extended Area Service From the Sherburn Exchange to the Fairmont Exchange, Docket No. P-405/CP-89-1080, ORDER REQUIRING COST STUDIES AND PROPOSED RATES AND ESTABLISHING COMMENT PERIOD (October 30, 1990).

² Order at pages 3-4.

therefore, the Commission will not find Finlayson's petition defective for failure to list Sandstone, an exchange to which it now has EAS, in its petition. To do so would simply cause delay for no substantive reason. To fulfill a requirement that a petitioning exchange must seek EAS to all the exchanges comprising the LCA that contains the actually desired exchange, a petition "correctly" listing Sandstone would no doubt be quickly filed. Again, since Finlayson already has EAS to Sandstone, such a formal requirement would be absurd.

Accordingly, the Commission finds that since Finlayson is contiguous to the Sandstone/Hinckley LCA and has EAS to the exchange in that LCA that is not specifically listed in its petition, it meets the adjacency criteria of the EAS statute with respect to the Hinckley exchange and will continue to process this petition. Minn. Stat. § 237.161, subd. 1 (a) (1992).

C. Adequate Traffic

The second statutory criteria is that there must be adequate traffic between the petitioning and petitioned exchange: more than half of the subscribers in the Finlayson exchange must make one or more calls per month to the Hinckley exchange. In this Order, the Commission will direct GTE, the telephone companies serving the Finlayson exchange, to file traffic studies to determine that point. The Company will be required to submit at least six months of data. Twelve months of data should be used if available. The adequacy of traffic will be determined on the basis of calls per access line, so the traffic studies should be based on calls per access line, not customer accounts. If GTE is unable to provide traffic studies by access line, it should so state and submit studies by account. The Commission may be able to use this data as a proxy for studies by access line.

D. Ratepayer Support

If the traffic studies required by this Order show that Finlayson meets the traffic criterion, the Commission will proceed to poll Finlayson subscribers to determine whether the third criterion (adequate subscriber support) will be met. Before doing that, however, the Commission will adopt EAS rates for this route to give Finlayson subscribers a clearer picture regarding the rate impact of implementing EAS. To assist the Commission in establishing fair EAS rates for polling purposes, the Commission requires the affected telephone companies to file sound cost studies and proposed rates.

E. Stimulation Factor

One of the factors used to build cost studies and compute EAS rates is the stimulation factor.³ Since the stimulation factor appropriate for a given exchange may vary from exchange to exchange, the Commission will direct the parties in this matter to file comments on the appropriate stimulation factor for this docket. With these comments in hand, the Commission will be able to consider that question if it determines that the traffic studies show that this petition warrants further consideration.

ORDER

1. Within 30 days of this Order, GTE-Minnesota (GTE) shall file traffic studies as described in this Order.
2. Within the same 30 day period, all parties shall file comments regarding what stimulation factor is appropriate to use this docket.
3. The Minnesota Department of Public Service (the Department) may file comments regarding GTE's traffic studies within 20 days following the filing of those studies.
4. All parties shall have 20 days following the filing of GTE's traffic studies to file reply comments.
5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

³ It is understood that the availability of EAS will stimulate subscribers in the petitioning exchange to increase the number and duration of calls to the area to which they have gained EAS. The percentage increase in such calling occasioned by the switch to EAS translates into what is called an EAS **stimulation factor**. For example, an increase of 600 percent translates into a stimulation factor of 7. The EAS rate is set to recover, among other things, the expense of installing facilities and operating expenses that will be necessary to accommodate this increased calling.

(S E A L)